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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,483	03/30/2001	Taro Tokuhira	39303.2023900	1512
25224	7590	01/18/2006	EXAMINER	
MORRISON & FOERSTER, LLP 555 WEST FIFTH STREET SUITE 3500 LOS ANGELES, CA 90013-1024			FADOK, MARK A	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/824,483		TOKUHIRO ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Mark Fadok		3625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-22 is/are pending in the application.
- 4a) Of the above claim(s) 17 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16,18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| <p>✓ 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>✓ 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/> Paper No(s)/Mail Date <u>10/01/04</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/> Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|--|---|

***Response to Amendment***

The examiner is receipt of applicant's response to election requirement mailed 9/19/2005, which was received 11/21/2005. Acknowledgement is made to the election of Group IA claims 16,18,21 and 22 for continued examination with traverse. The examiner concurs that claims 21 and 22 are generic and containing the same subject matter and will therefore be included in the prosecution on the merits. Since claim 20 was inadvertently not addressed the examiner will treat this claim as well, leaving claims 16,18,20,21 and 22 as pending in the instant application. The examiner has considered the applicant's amendment and arguments and finds them to be persuasive, however after further searching a new grounds of rejection necessitated by amendment follows:

**Examiner's Note**

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16,18,21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferguson et al (5966,697).

In regards to claims 16,18,21 and 22, Ferguson teaches all the features of the instant claims. For instance, Ferguson provides a system and method for shopping at a variety of different vendors easily and securely. A user first chooses to shop at a particular merchant. The user receives product information from the merchant's computer which is in turn displayed on the user's computer. The user may select an item for purchase from the displayed product information. For example, the user may select a sweater from a merchant and may be able to select the color and the size of the sweater. Additional pricing information may also be attached to an option, so an extra large sweater may cost more than a regular sweater.

After the user selects an item, the item and all of the options for the item are stored in a memory (referred to herein as shopping selection data, product selection data, or selection data) which may be stored on the merchant's computer. When the user is done shopping at a particular merchant (or is done searching for a particular item from a plurality of merchants), the user has a choice of either shopping at a different merchant or checking out. Assuming that the user chooses to shop at a different merchant, the user's selection data is transferred to and stored in the next

Art Unit: 3625

merchant's computer. At any time, the user may choose to see, edit and delete items previously selected regardless of which merchant computer the user is currently accessing. This process continues until the user requests to checkout.

Then the user requests to checkout, the selection data that has been gathered throughout the user's shopping session is transferred and stored on a secured computer that performs the checkout processing. The user may enter their name, billing address, and other identifying information along with their credit card information for the credit card they choose to use to make all the purchases. Once this information has been entered, the checkout processing computer uses the user's identifying information and credit card information to perform multiple credit card transactions with one transaction for each merchant from whom the user selected items. The checkout processor also determines what, if any, extra fees such as sales tax and shipping expenses are to be added to the order. The credit card is authorized for each sale separately and the user and the merchant receive receipts for the purchase via electronic mail.

Some goods, such as software, may be transmitted to the user via the computer network on which the user is shopping. In this situation, the goods may be transmitted to the user immediately following the successful transaction (Summary).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson in view of Official Notice.**

In regards to claim 20, the examiner takes Official Notice that it was old and well known in the art to send instruction to order or manufacture parts from a factory when the stock at the vendor is depleted. It would have been obvious to a person having ordinary skill in the art at the time of the invention to order parts when there is a stock out, because not having this capability would lead to a lost sale and therefore lost revenue.

***Response to Arguments***

Applicant's arguments with respect to claims 16,18,20,21 and 22 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(571) 272-6755**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(571) 272-7159**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is **(571) 272-3600**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(571) 273-8300** [Official communications; including

After Final communications labeled

"Box AF"]

**(571) 273-6755** [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a long horizontal flourish extending to the right.

Mark Fadok

Primary Examiner